

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
DENNIS SINDONE,

Plaintiff,

- against -

**AMENDED NOTICE OF  
MOTION TO DISMISS THE  
COMPLAINT**

RAYMOND KELLY, as Commissioner of the New York  
City Police Department; BERNARD B. KERIK, as Former  
Commissioner of the New York City Police Department;  
THE NEW YORK CITY POLICE DEPARTMENT; and  
THE CITY OF NEW YORK

05 CV 7860 (VM)

Defendants.  
----- X

**PLEASE TAKE NOTICE** that upon the Declaration of Assistant Corporation Counsel Melissa G. Shear, dated January 6, 2006, together with the exhibits annexed thereto, the memorandum of law in support of defendants' motion to dismiss the complaint, dated January 6, 2006, and all other pleadings and proceedings previously had herein, defendants will move this Court before the Honorable Victor Marrero, United States District Judge, United States District Court, Southern District of New York, at the United States Courthouse for the Southern District of New York, located at 40 Centre Street, New York, New York, on a date and at a time to be designated by the Court, or as soon thereafter as counsel may be heard, for an order, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Complaint in its entirety on the grounds that: (1) the complaint fails to state a claim upon which relief may be granted, (2) the Court does not have jurisdiction over the claims asserted, and (3) the complaint is barred by the doctrine of res judicata, and for a judgment for defendants together with such other and further relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that pursuant to the briefing schedule approved by the Court by memo endorsed order dated November 17, 2005, answering papers, if any, must be served on the undersigned no later than January 27, 2006. Reply papers, if any, shall be served by February 10, 2006.

Dated: New York, New York  
January 11, 2006

**MICHAEL A. CARDOZO**  
Corporation Counsel of  
the City of New York  
Attorney for Defendants  
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New York, New York 10007  
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By:   
Melissa G. Shear (MS1704)  
Assistant Corporation Counsel

To: James M. Thayer, Esq  
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05 Civ. 7860 (VM)

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**AMENDED NOTICE OF MOTION TO  
DISMISS THE COMPLAINT*****MICHAEL A. CARDOZO****Corporation Counsel of the City of New York  
Attorney for Defendants  
100 Church Street, Room 2-122  
New York, N.Y. 10007-2601**Of Counsel: Melissa G. Shear  
Tel: (212) 788-0887  
NYCLIS No. 05 LE 000296**Due and timely service is hereby admitted.**New York, N.Y. ...., 200**Signed .....**Attorney for .....*